

MINUTES

FINANCE & ECONOMIC DEVELOPMENT (TOURISM / VISITOR INDUSTRY / SMALL BUSINESS DEVELOPMENT / SPORTS & RECREATION DEVELOPMENT / OTHER ECONOMIC DEVELOPMENT AREAS) COMMITTEE

April 3, 2013

A meeting of the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee of the County of Kaua'i, State of Hawai'i, was called to order by Councilmember Nadine K. Nakamura, Vice Chair, at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, April 3, 2013, at 5:03 p.m., after which the following members answered the call of the roll:

Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Nadine K. Nakamura
Honorable JoAnn A. Yukimura, Ex-Officio Member
Honorable Jay Furfaro, Ex-Officio Member

Excused: Honorable Mel Rapozo
Honorable Tim Bynum

Minutes of the March 20, 2013 Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee Meeting.

Upon motion duly made by Councilmember Kagawa, seconded by Councilmember Hooser, and carried the following vote of 3:0:2 (Bynum and Rapozo excused), the Minutes of the March 20, 2013 Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee Meeting was approved.

The Committee proceeded on its agenda items, as shown in the following Committee Report which is incorporated herein by reference:

CR-FED 2013-05: on FED 2013-02 Communication (03/04/2013) from Committee Chair Bynum, requesting agenda time to discuss updated real property tax data and historical trends from Fiscal Year 2004 (Tax Year 2003) through Fiscal Year 2013 (Tax Year 2012) as it relates to the Council's tax rate setting responsibility outlined in Chapter 5A-6.3, Kaua'i County Code 1987, as amended, and as it relates to the Fiscal Year 2013-2014 Budget Session and the general fiscal condition of the County of Kaua'i. **[Received for the Record.]**

There being no objections, the Committee recessed at 5:05 p.m.

The Committee reconvened at 5:34 p.m., and proceeded on its agenda items, as follows:

Bill No. 2467 A BILL FOR AN ORDINANCE AMENDING
CHAPTER 5A, KAUAI COUNTY CODE 1987, AS
AMENDED RELATING TO REAL PROPERTY TAX
[This item was deferred.]

Mr. Kagawa moved to approve Bill No. 2467, seconded by Mr. Hooser.

Vice Chair Nakamura: Discussion?

Mr. Kagawa: Yes. We had a public hearing on this Bill. There were no objections. I believe the intentions are good and we just want to give those deserving the appropriate tax breaks. Thank you.

Vice Chair Nakamura: Any further discussion?

Mr. Hooser: I would like the words of Councilmember Kagawa reflected in the minutes as if they were my own.

Vice Chair Nakamura: Okay, I have an amendment. Peter, do you have the amendment to circulate?

Mr. Kagawa: Vice Chair, if you do not mind, can you just give a brief synopsis of the amendment?

Vice Chair Nakamura: Yes. When I read the language in Section 2 (E) number one (1), it did not really make sense to me. It was not clear and I wanted to just clarify the language, but not change the intent.

Mr. Kagawa moved to amend Bill No. 2467 as circulated which is attached hereto as Attachment 1, seconded by Mr. Hooser.

Vice Chair Nakamura: Thank you. Any further discussion?

Mr. Furfaro: Perhaps the Finance Director wants a moment to look at the amendment.

Vice Chair Nakamura: While he is doing that, can we go onto the next item, please?

There being no objections, Bill No. 2473 was taken out of order.

CR-FED 2013-06: on Bill No. 2473 AN ORDINANCE AMENDING
ORDINANCE NO. B-2012-737, AS
AMENDED, RELATING TO THE CAPITAL
BUDGET OF THE COUNTY OF KAUAI,
STATE OF HAWAII, FOR THE FISCAL
YEAR JULY 1, 2012 THROUGH
JUNE 30, 2013, BY REVISING THE
AMOUNTS ESTIMATED IN THE BOND
FUND (*Vertical Expansion of the Kekaha
Landfill, \$298,531.00*) [Approved.]

Vice Chair Nakamura: Let the Committee go back to Bill No. 2467. Steve, have you had a chance to read the amendment?

There being no objections, the rules were suspended.

STEVEN A. HUNT, Director of Finance: Yes, I have. I guess, the bigger concern I have, not so much about the amendment is globally. This particular Bill is dealing with one (1) portion of all of the exemptions, all of the requirements, filing deadlines that people have within our Office. I am concerned that people who did not apply for a basic Home Exemption, people who missed an Agriculture Deductions, any other filing requirement are going to feel somewhat a fronted that one (1) particular group is being let in the door that missed the filing deadline. That is just from a uniform enforcement perspective. I am not saying that the people who really are in need of a tax break should not get them, but what I am saying is it somewhat undermines our ability to uniformly enforce all of our deadlines and that is my biggest concern of these types of Bills that come in as a retrofit that someone missed. The specific language here, and I just want to be clear on this, a homeowner shall be entitled to a credit equal to the difference between the Real Property Tax as assessed on the homeowner property for 2013 and the amount of Real Property Tax that would have been assessed. Is that meaning "that would have been assessed," had they received that exemption amount because we are not amending the exemption per say. Once we have certified the assessment list, we cannot go back and award the exemption. So, that is why we are dealing with this through a tax credit and I just want to make clear what the intent is. When we are saying "what they would have been," is that with the understanding would have been had they received that one hundred twenty thousand dollar (\$120,000) exemption and what that tax calculation would have been? Then again, as capped by the maximum amount of three hundred dollars (\$300), is that correct?

Vice Chair Nakamura: Do you want to clarify that, then, JoAnn?

Ms. Yukimura: It is what we have written with Steve's help. That is what we wanted to give and so I am not sure what the amendment is doing here. I was hoping that it did not change both the intent and the effect of the Bill as it is written as we discussed.

Mr. Hunt: At our discussion, and again, I remember the discussion but not necessarily receiving the final Bill. Our discussion was that we were looking at doing this by a credit rather than trying to violate the issue of reinstating an exemption amount per say and because of the different tax classification, that amount would have different impacts. What we had discussed was having a fixed credit amount that they could receive up to three hundred dollars (\$300) provided that the three hundred dollars (\$300) essentially did not go below the minimum tax where we are actually refunding money or paying someone to live on their property so that there was still going to be the minimum tax threshold of twenty-five dollars (\$25). In the instance where someone had a two hundred fifty dollar (\$250) tax bill, without the credit, and we are going to get the three hundred dollars (\$300) credit, we would not be paying the money that they would cap at that twenty-five dollars (\$25) minimum tax...

Ms. Yukimura: That is correct.

Mr. Hunt: ...and the difference between that would be the amount of the credit. That was, I believe, the intent.

Ms. Yukimura: That is correct. We, I mean, this issue is very complex. But we did not want people to get more than they would have gotten if they had qualified for the exemption.

Mr. Hunt: Well, in many cases, they would have gotten more had they applied and qualified depending on their tax rate because that one hundred twenty thousand dollar (\$120,000) exemption times a larger tax rate, and again, we have not set those rate yet so we do not know what that is. But if it had been in a category that had a higher tax rate than the homestead rate, they would have been eligible for a higher exemption amount. I think that is what we were sort of grappling with, was we are not actually giving them the exemption and calculating that in their bill, we set a hard cap amount of three hundred dollars (\$300) not to exceed. So, they could get up to three hundred dollars (\$300) credit, but if someone who would have got a seven hundred dollars (\$700) credit because of their particular tax rate applied to that one hundred twenty thousand dollar (\$120,000) exemption, they would be limited to three hundred dollars (\$300).

Vice Chair Nakamura: Right.

Ms. Yukimura: Well, the three hundred dollars (\$300) is a cap.

Mr. Hunt: Okay. So, not to go below twenty-five dollars (\$25) minimum tax and not to exceed a three hundred dollars (\$300) credit, is the two (2) criteria that we are working within.

Ms. Yukimura: And I do not understand how the amendment is affecting the cap.

Vice Chair Nakamura: It does not.

Ms. Yukimura: Right.

Mr. Hunt: No, again, in just reading the language, to me, it is what would have been assessed.

Vice Chair Nakamura: So, maybe Steve, if you can help us here. You said earlier that if we added some language "would have been assessed," maybe we just need to add some clarifying language. Had the...

Mr. Hunt: Had the one hundred twenty thousand dollar (\$120,000) exemption been awarded or something to that.

Vice Chair Nakamura: Had the one hundred twenty thousand dollar (\$120,000) exemption been awarded.

Mr. Hunt: Because that is where I am missing the language.

Vice Chair Nakamura: That is right.

Mr. Hunt: It just does not speak to what there would have been on what basis.

Vice Chair Nakamura: Yes. If the homeowner applied for and was entitled to the exemption, and all of that is okay?

Mr. Hunt: Correct.

Vice Chair Nakamura: Okay. So, that is what we would need to amend this Bill, to add that language, and then we can take action today. Is that okay?

Ms. Yukimura: Yes. Where do the words go, now, exactly?

Vice Chair Nakamura: So, right after the word...

Mr. Hunt: Would have been assessed.

Vice Chair Nakamura: Real Property Tax that would have been assessed, add the language "had the one hundred twenty thousand dollars (\$120,000) exemption been awarded." This is a very long sentence, but I think it is that complicated.

Mr. Hunt: We need that clarification because again...

Vice Chair Nakamura: Yes. Peter, did you get that language. Okay, good. Are we able to act on this or do we need this in writing?

Mr. Furfaro: You should have it in writing.

Ms. Yukimura: Need it in writing.

Vice Chair Nakamura: Okay, then we need to take a short recess while that is being prepared.

Mr. Furfaro: Well, I have questions.

Vice Chair Nakamura: Okay, go ahead. So, Peter you can go ahead and work on that.

Mr. Furfaro: Steve, let me ask you something.

Mr. Hunt: Yes.

Mr. Furfaro: What precedence does this whole thing establish by allowing people, as we have passed the deadline, where does that stop?

Mr. Hunt: That is my concern with the whole Bill. I mean, that and again...

Mr. Furfaro: For that reason alone, I will not support this.

Mr. Hunt: Yes.

Ms. Yukimura: May I explain?

Mr. Furfaro: I wanted to say, so have you expressed that?

Mr. Hunt: I did express that.

Chair Furfaro: I mean, we have a deadline, we have tax policies that are there. Individuals should take responsibility for that, but I understand this particular target. But I am saying, what happens if people start lobbying us for all the other deadlines? What happens?

Mr. Hunt: Then I am here more than I want to be.

Mr. Furfaro: No, not only that...

Mr. Hunt: Then you are.

Mr. Furfaro: ...but where does it stop? I mean, if this is a concern, we should move toward it to frame it that fits the existing schedule for deadlines to file. That is my only concern here, is I want to make sure everybody understands, for that reason even when it comes to the Committee of the Whole, I will not support it because you are opening a can of worms that the legal Department is going to have to defend. We are making exceptions on deadlines and how do you do for one (1) and not do for all?

Mr. Hunt: And that is what I have had the problem with the Bill the whole time. It is not that I am not compassionate for those that clearly could be deserving of this and are in the most need potentially, this is the income exemption. However, if it is undermining all of our deadlines, I certainly cannot support it either.

Mr. Furfaro: It makes deadlines not mean anything.

Mr. Hunt: It is hard for us to enforce.

Mr. Hooser: Can we do discussion here?

Vice Chair Nakamura: Yes.

Mr. Hooser: I also had some reservations when this issue was first brought to the table. But after reflecting upon it, I will be supporting it. I think that there are circumstances with elderly or other people who may not be as agile in their community involvement or just read the paper. I think it is probably a wakeup call also to the County in general, but the Tax Department, certainly to look at their notification issues. I do not subscribe to the newspaper. I read it on occasion. I read it online. But I am also working full-time and I am not retired or on a fixed income. I can imagine that there are people in this case and other cases who, through no fault of their own, they missed the deadline. I do not even know the history, I do not know the history all that well. But I think the County does have some responsibility to make sure that residents are informed and I have no problem helping. I am concerned about doing this over and over again, but in this situation, I have no problem supporting the measure.

Vice Chair Nakamura: Thank you very much. Councilmember Kagawa.

Mr. Kagawa: Steve, I always thought that the people that are missing the deadlines are cases where we can afford it. They miss the deadline, well you know, although we receive more as a County, we could afford it if they

honestly missed the deadline, made a mistake, afford to not have their money. What I am hearing is that we are afraid of pressing it. It is like there is such a large number of people that are missing deadlines and we are saying, "We got some extra cash." But you have been running that Real Property Tax Division a long time, now you are the Head. I think your expertise and your advice is invaluable and we have the right man for the right job, I think. Steve, I know you well. You are worried about the revenues and when we pass things like this it just opens up a can of worms. I wish I had had that talk with you earlier because I think it just seems to me, and I do not know if you want to answer this, that there are a lot of people that do not read the paper, as Mr. Hooser said, or was not told by their friend that there is an opportunity here. Is that the case?

Mr. Hunt: No, and I am glad you brought that up because I do wanted to respond to that. We actually did direct mailers to all homeowners informing them of the exemptions, the amounts, the filing deadlines, and any changes, we highlighted in red. We did it for two (2) years in a row and all of our notices on the back, all the filing deadlines, were bold red. So, we did it for two (2) years in a row with both direct mailers and with changing our note of assessment to include the red because we were moving up the deadlines. We wanted to make sure we gave ample notice, so we did that specifically through the reassessment notice. So, I mean, you are getting that. You are getting the bill, you have the notification direct. So, that is in addition to the information we did through our normal channels which Beth sends out notices, we use the paper for both these notices and for the notice of assessment and for upcoming filing deadlines. We posted it on our website with all of the frequently asked questions (FAQ) and information. So, to the extent that we can and is feasible without sending registered or certified mail to everyone, we are trying to get out the word as far as these deadlines. For the most part, we had increased number of applicants because we changed some of the legislative things, thanks to you, we changed some of the legislation that allowed gross income rather than net which opened up a wider net to bring in people that are not taking advantage of tax free exemption bonds and other forms of income that do not necessarily contribute to their AGI, but are forms of income. So, that really, I think, made a big difference to in doing that to include a greater group of people that were in need. So, bottom line is our overall numbers have increased in that low income exemption. Not decreased, but obviously there are a few that slipped through the cracks and that is why we have the Bill before us.

Mr. Kagawa: Well, for me, I really based myself in this position as trying to make things fair. Is the deadline fair that for everybody? Does everybody have the same knowledge and ability to not make a mistake and throw out a piece of paper in the trash when they should have really read it? I mean, I just think fair is if you deserve the exemption, you deserve the appropriate tax. That is the position we are elected to and I am going to go with my conscious, but I understand that. I thank you, hopefully next time, I should contact you, because you have a large thing on your plate. Thank you, Steve.

Vice Chair Nakamura: Councilmember Yukimura.

Ms. Yukimura: Thank you. You said the notices were given two (2) years in a row. Was the change not for this moving the deadline up only made last year?

Mr. Hunt: Right. But we actually changed them in 2011, I believe it was.

Ms. Yukimura: Well, there were changes. Every time you make changes you have to give notice.

Mr. Hunt: Right. Correct, so what we did was we...

Ms. Yukimura: But for this particular exemption, this was a move up from December 31st to what was it, November?

Mr. Hunt: It was September 30th.

Ms. Yukimura: September 30th.

Mr. Hunt: Correct.

Ms. Yukimura: These deadlines were not missed by new people. They were missed by people who have been filing this year, after year, after year. The announcement was a single sheet of paper, single spaced, and with a lot of changes. So, in fact, one of the ladies said she thought she was going early. She went in December 1st and she thought she was being early, only to find that the change had been made. So, it is not your usual situation of a new deadline or people just becoming qualified and checking. It was people who have been doing this in the past and then...and yes, they were sent a letter. But it was not...I mean if I had been Finance, I would have put on the envelope in red, deadlines have changed, read carefully. The Attorney who has brought this to my attention, he talked about how Attorneys miss their registration deadline even though it is on there.

Mr. Hunt: Yes, I want to respond to that. It was two (2) years in a row because the first change was the amount of the exemption, although the filing deadline had been the same, we first changed the amount.

Ms. Yukimura: Yes.

Mr. Hunt: Yes we did. It was one hundred fifty thousand dollars (\$150,000) to one hundred twenty thousand dollars (\$120,000) with the same filing deadline for the year previous. When we addressed the change of deadlines for the following year, because we actually adopted it even though it was not effectuated for the 2013 assessment year, we adopted it before the end of December 2011. So, we knew two (2) years in advance. So, we posted the changes that were affected for both the 2012 and the 2013 in the first year and then we did the change of deadlines just for 2013 the second year. So, it was posted twice.

Ms. Yukimura: But the change of deadline is the key issue. The change of the amounts may...that gets vetted through the application process. The key is when you apply and if you do not apply on time, it does not even get processed.

Mr. Hunt: And to that end, the change in deadline was sent two (2) years in a row explaining what they would be for 2013. Now, I am not saying that there are people that did not get the message, all I am saying is we have done what we could do to notify them.

Vice Chair Nakamura: I think we just want to recognize that there were very concerted efforts to notify the public. I would like to request we take a five (5) minutes recess while our Attorney talks to Steve Hunt because there are

some reference to the one hundred twenty thousand dollars (\$120,000) in the actual Ordinance that he believes is redundant. So, he wanted to just have that time to have you take a look at that, make sure you are okay with that, and then we can come back. So, if we could just stay here so we can take action on this and adjourn. Thank you.

There being no objections, the Committee at recessed 5:55 p.m.

There Committee reconvened at 5:57 p.m., and proceeded as follows:

Vice Chair Nakamura: Steve, did you get a chance to speak to our Attorney?

Mr. Hunt: I did and I am comfortable that the reference to subsection (D) and that exemption amount is sufficient so that will not be redundant. It would be redundant to include it here.

Vice Chair Nakamura: Thank you, Peter Morimoto, for pointing that out. Before we move on, Chair Furfaro.

Mr. Furfaro: I want to make sure that the comments I brought up, Steve, it is not directed at compassion for certain individuals and so forth because I try to live *aloha* every day. I do not think people understand in this Bill the unintended consequence that might lead to the County Attorney's Office having to deal with why certain dates are changed extended and how do you defend *aloha*, quite frankly? That is what I am trying to point out. So, that is part of my role as the Chair. I have pointed it out, if this continues at such, maybe I just go silent. But I do not think people on this Committee, right now, have vetted all of the issues about potential unintended consequences.

Vice Chair Nakamura: Well, we have the County Attorney here and if he would like to add to the discussion, we can have that happen. This is the appropriate forum.

Mr. Furfaro: I think that would be appropriate for you, Madam Chair, to have him come up and see if I actually have a valid concern or not.

Vice Chair Nakamura: Okay.

Mr. Hunt: I did have one (1) more concern that I would like to address.

Vice Chair Nakamura: Yes, thank you. Sure.

Mr. Hunt: And that is going to be the continued notification. On this Bill itself, it talks about after enactment, it is valid for forty-five (45) days for, I guess, application review and whether they are going to be given that credit if this passes. I cannot see doing a direct mailer because the only way to search those that would be eligible for this exemption that have not received it, would be to check to make sure that the ownership has not changed on a property, that they had the income exemption last year and they did not get it this year. The problem is some of the people that did not get them this year is because they did not qualify and I would be remised to send them notices again to say come in and apply for something you are not eligible for because you have already been declined based on your income amount. To me, that is a little bit salt in the wound

and so I am hoping that this, either through this public forum, it is being addressed here or some other public notification. But to anticipate any kind of a list or direct mailing would probably be not appropriate.

Vice Chair Nakamura: Thank you, Steve. I think that is how you responded to my questions regarding this, that is consistent with the concerns you raised earlier. Councilmember Yukimura.

Ms. Yukimura: Yes. Steve, in the extensive discussions that we were involved in with Jennifer Winn, it was clear to me and we have not put in any requirement in these amendments to make mailing notices to people because you know, I think that is an undue burden on the Department. But at least if people have the chance, however, word can get out that will be it. But there is no intention here to require any mailing.

Mr. Hunt: Okay, I appreciate that.

Vice Chair Nakamura: Thank you very much. Any further questions for Mr. Hunt?

Ms. Yukimura: I do.

Vice Chair Nakamura: Councilmember Yukimura.

Ms. Yukimura: So, the amendments proposed by Vice Chair, still keep the essence of the intention and the effect that we wanted?

Mr. Hunt: Yes, from my reading of it, yes.

Ms. Yukimura: Right, okay. Thank you.

Vice Chair Nakamura: Thank you. I would like to now call on the County Attorney.

ALFRED B. CASTILLO, JR., County Attorney: Good evening. I think this qualifies as evening. If I may, Vice Chair, as I was observing the discussion that was happening before my eyes, my thoughts were really whether or not this agenda item has been appropriately and adequately vetted for the legality. Number one (1), especially when you promulgate laws and you do amendments, especially in the Tax Code, I am really worried about unintended consequences. How this measure affects other measure that we have in Real Property? The question that I have also was how does it vary from the original Bill because it is an Ordinance amending Chapter 5A of the Kaua'i County Code. Is there a material change? Does the original caption lose its identity by the amendment. I am not sure that all of these, I do not know if all of these matters were clearly vetted. I know that I have a Deputy assigned to Real Property and I do not want to come up here and I know I did not speak to her about this.

Vice Chair Nakamura: Okay, so are you asking for a deferral?

Mr. Castillo: Yes. I would ask for more time, just to make sure that we are on all fours on this. Thank you.

Vice Chair Nakamura: Councilmember Hooser.

Mr. Hooser: Yes, it was my understanding that proposed Ordinances, part of their required procedures to go through your Office before it comes to first reading of public hearing or anything like that.

Mr. Castillo: Yes, but we cannot anticipate what matters are amended and then to react on the fly.

Mr. Hooser: I think you do expect to react on the fly because I have seen you do it all the time. The amendment aside, we are not talking about the amendment, we are talking about the fundamental core of the principal, and that is what we are talking about. We are not talking about the amendment.

Mr. Castillo: Okay.

Mr. Hooser: So, it has been to the County Attorney's Office already, once. We had first reading, we had a public hearing, and now you are telling us that we should not have been dealing with this in the first place?

Mr. Castillo: Councilmember Hooser, you know, I am not up here to argue the legality. I am here to give you advice that from my observation of what I was hearing, it will be legally prudent to defer this matter, give us a chance to really take a look and it, and come back. That is my legal advice.

Vice Chair Nakamura: Councilmember Yukimura.

Ms. Yukimura: So, Al, we have worked from the start with Jennifer Winn on this. So, my question is do you really think there is a legal issue? I do not feel that the County Attorney is rightfully to opine on a policy decision that this Council makes. The question is whether there is a legal issue here that puts the County at risk?

Mr. Castillo: Then I certainly agree with you, Councilmember Yukimura, that policy matters, that would be in your court. I cannot tell you what discussion that you have had or Steve Hunt has had with Jennifer Winn. I can only tell you that from the discussions that I have heard, it raises red flags and it raises flags of unintended consequences. I just want to be sure as...

Ms. Yukimura: What is the legal issue that you see?

Mr. Castillo: I do not want to argue with you.

Ms. Yukimura: I am not arguing.

Mr. Castillo: I need time.

Ms. Yukimura: I am just asking you.

Mr. Castillo: I need time to review what we have and I need time to discuss this matter with the Real Property Tax folks, with Jennifer, and with Steve. If you allow me the time, then I will be able to come back with you and give you a better briefing on this matter. But it would be malpractice of me right now to make any sort of recommendation on the fly.

Vice Chair Nakamura: Okay. Any further questions for Mr. Castillo? Mr. Kagawa.

Mr. Kagawa: Thank you, Chair. Al, if we defer for two (2) weeks, can you come back and let us know if there is a legal issue, and clear it all up?

Mr. Castillo: Absolutely.

Mr. Kagawa: I do not want to defer on the next time. I want to either approve it or if it is harmful to the County then I want to kill it. Thank you.

Mr. Castillo: Thank you.

Vice Chair Nakamura: Any further discussion? Yes, Council Chair.

Mr. Furfaro: I just want to make sure the County Attorney understands my concern. We are amending a file date for one (1) group, does that have any impact and is it defensible on more than just *aloha* for the seniors and so forth, that it is defensible if another group comes to apply and because we have moved the deadline. That is all I want to know.

Mr. Castillo: Council Chair, I heard you the first time and it did raise a red flag, one (1) of which we will be looking at. Thank you.

Mr. Furfaro: So, if you can change my mind, change my mind.

Vice Chair Nakamura: Okay, with that, if there are no further questions, then we will come back to our session.

There being no objections, the meeting was called back to order, and proceeded as follows:

Vice Chair Nakamura: Can I will entertain a motion to defer for two (2) weeks? There is no discussion after a deferment, so did you want to say something or just make the motion?

Mr. Kagawa: I just want to discuss. I am sorry. I am ready to actually approve it until the County Attorney came up. I do not want to do something that would put the County in jeopardy of more law suits. I am tired of seeing law suits and challenges. I still think...I have not talked to any individual to support this. Like I said, when I make decisions it is what is fair and I think it is fair. If they deserve a break, they should pay the appropriate tax rate and I understand working in the Department, maybe if I was there, I would know why deadlines are important. But I think our tax rates should be based on the basis that we collect enough based on what is their fair share. I will wait for two (2) weeks and I will be ready to make a decision. I will wait for the County Attorney's decision.

Vice Chair Nakamura: Any further comments?

Mr. Hooser: Sure, I have some further comments. I am really disappointed in this eleventh hour decision, especially when the County

Attorney's Office has had lots of time to review this and frankly, I have to choose my words carefully here. Too often, I think, the advice we may get is telling us why we cannot do something and I would hope that the County Attorney's Office would understand what we are trying to accomplish and what we are trying to do for the people of Kaua'i and to rectify an error that perhaps majority believe happened. So, given that the County Attorney's Office knows what we would like to accomplish, I would hope that they would come back to us with whatever answer they give us, fashioned in a manner which would allow us to move forward in legal and equitable way to solve the issue that we are hoping to solve rather than just telling us, no we cannot do it or hopefully they will say, yes, we can do it. So, I would like to thank you.

Vice Chair Nakamura: Thank you. I think that is well taken. Really the clarification between what is a legal advice versus policy advice. Chair Furfaro.

Mr. Furfaro: Yes, and I just want to say again, I am raising the question about constitutionality as it deals with everybody being treated fairly. I share your compassion, Mr. Hooser, about this too. But I want to make sure, my question is about constitutionality.

Vice Chair Nakamura: Thank you very much for that clarification, Chair. Councilmember Yukimura, are you okay? Go ahead, do you want to make the motion?

Upon motion duly made by Mr. Kagawa, seconded by Mr. Hooser, the motion to defer Bill No. 2467 was unanimously carried (Committee Chair Bynum and Councilmember Rapozo were excused).

There being no further business, the meeting was adjourned at 6:12 p.m.

Respectfully submitted,



Allison S. Arakaki
Council Services Assistant I

APPROVED at the Committee Meeting held on April 17, 2013:


TIM BYNUM
CHAIR, FED COMMITTEE

(April 3, 2013)
FLOOR AMENDMENT
Bill No. 2467, Relating to Real Property Tax

INTRODUCED BY: Nadine Nakamura, Councilmember

Amend Bill No. 2467 by amending Section 2 to read as follows:

“SECTION 2. Section 5A-11.4 of the Kaua‘i County Code 1987, as amended, is hereby amended by adding a new subsection (e) and re-lettering the former subsection (e) as subsection (f), to read as follows:

“(e) Low Income Homeowner Credit.

(1) Upon proper application, a homeowner shall be entitled to a credit equal to the [amount that] difference between the real property tax assessed on the homeowner property for the 2013 tax year [exceeded] and the [amount of the] real property tax that would have been assessed if the homeowner applied for and was entitled to the exemption in subsection (d), or \$300.00, whichever is less. The credit shall only be available to those homeowners who missed the deadline to apply for the credit in the 2013 tax year and shall be applied against payments due for the 2014 tax year. No credit shall be applied if taxes on the property are delinquent.

(2) No credit shall be granted pursuant to this section unless:

- A. an application as set forth in subsection (d)(4) is submitted within forty five (45) days of enactment of this ordinance,
- B. the homeowner meets all the criteria set forth in subsection (d) and
- C. the credit is approved by the Director.

(3) Credits granted pursuant to this section shall not be transferable to other persons or properties.

(4) The director may adopt rules and prescribe forms to implement this section.

(f) In addition to any penalty provision set forth in Article 11, any person who files a fraudulent application or attests to any false statement, with intent to defraud or to evade the payment of taxes or any part thereof, or who in any manner intentionally deceives or attempts to deceive the

department of finance, shall be fined \$1,000 or imprisoned for not more than one year or both."

(Material to be deleted is bracketed. New material is underscored.)

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